



DEPARTMENT OF JUSTICE

[CPCLO Order No. 003-2023]

Privacy Act of 1974; Systems of Records

AGENCY: United States Department of Justice.

ACTION: Notice of a New System of Records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that the Justice Management Division (hereinafter JMD), a component within the United States Department of Justice (DOJ or Department), proposes to develop a new system of records notice titled HAVANA Act Compensation Records, JUSTICE/DOJ-021. DOJ proposes to establish this system of records in connection with the provisions in the HAVANA Act to allow claimants to be compensated for qualifying physical injuries under the Act and the implementing regulations.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day period in which to comment on the routine uses, described below. Please submit any comments by [INSERT DATE 30 AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The public, OMB, and Congress are invited to submit any comments by mail to the United States Department of Justice, Office of Privacy and Civil Liberties, ATTN: Privacy Analyst, 2 Constitution Square, 8W.300, 145 N St. NE, Washington, D.C. 20002; by facsimile at 202-307-0693; or by email at privacy.compliance@usdoj.gov. To ensure proper handling, please reference the above CPCLO Order No. on all correspondence.

FOR FURTHER INFORMATION CONTACT: Morton J. Posner, General Counsel, Justice Management Division, 2CON, 145 N St., NE, Washington, DC 20530, (202) 514-3452.

SUPPLEMENTARY INFORMATION:

On October 8, 2021, President Biden signed the “Helping American Victims Affected by Neurological Attacks” (HAVANA) Act of 2021 (Pub. L. 117-46) (hereinafter, the HAVANA Act or the Act). In this statute, Congress authorized Federal agencies to make payments to certain affected current employees, former employees, and their dependents (hereinafter, “claimants”) for qualifying injuries to the brain. This law requires the Department (and other agencies) to prescribe regulations implementing the HAVANA Act, and the Department intends to publish an interim final rule (IFR).

An individual wishing to make a claim under the HAVANA Act (hereinafter, a “claimant”) will submit information about themselves and their claim to the Department. Those records will be used to determine a claimant’s eligibility for payment under the HAVANA Act, track the progress of the claim, inform the claimant of the status of the claim, and to inform any decision arising out of an administrative appeal relating to the claim.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and Congress on this new system of records.

June 14, 2023.

Date

Peter Winn,
Chief Privacy and Civil Liberties Officer,
United States Department of Justice.

JUSTICE/DOJ-021

SYSTEM NAME AND NUMBER: HAVANA Act Compensation Records,
JUSTICE/DOJ-021.

SECURITY CLASSIFICATION: The information in this system of records is unclassified.

SYSTEM LOCATION: Original records will be kept at the Justice Management Division (JMD), 2CON, 145 N St., NE, Washington, DC 20530. The database(s) will be maintained internally and on the JMD server.

SYSTEM MANAGER(S): Deputy Assistant Attorney General, Policy, Management, and Procurement, Justice Management Division, 950 Pennsylvania Avenue, N.W., Washington, DC 20530.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: Authority for maintaining this system exists under the HAVANA Act of 2021, Public Law 117-46.

PURPOSE(S) OF THE SYSTEM: Records maintained in this system will be used to determine a claimant's eligibility for payment under the HAVANA Act, track the progress of the claim, inform the claimant of the status of the claim, and to inform any decision arising out of an administrative appeal relating to the claim.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Current and former Department of Justice employees and their dependents, as defined in the HAVANA Act implementing regulations, who make claims under the Act ("claimants"), health care providers who submit supporting paperwork on behalf of the claimant, and other individuals appropriately submitting or referenced in supporting documentation, e.g., witnesses to the associated incident and other health care providers.

CATEGORIES OF RECORDS IN THE SYSTEM: Records in the system may include names of claimants, claimants' dependents, health care providers, or other individuals covered in this system, dates of birth, contact information, employment

information relating to the claim, date and location of the associated incident, medical information relating to the claim; and other records appropriately obtained or generated to process claims.

RECORD SOURCE CATEGORIES: Information may be provided by individuals covered in this system, the Department of Justice or other United States Government agencies, physicians or other appropriate medical personnel, or medical board certification organizations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

- A. To the claimant's listed physician or other appropriate health care providers to the extent necessary to gather information required for the processing of the claimant's claim.
- B. To any Federal agency or entity that the Department of Justice has reason to believe possesses information pertinent to claimant's claim, or with whom the Department of Justice must coordinate to process the claim, or as is otherwise appropriate to ensure fair and equitable implementation of the HAVANA Act.
- C. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law – criminal, civil, or regulatory in nature – the relevant records may be referred to the appropriate law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

- D. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.
- E. To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or informal discovery proceedings.
- F. To the news media and the public, including disclosures pursuant to 28 C.F.R. § 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.
- G. To contractors, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.
- H. To appropriate officials and employees of a Federal agency or entity that requires information relevant to the issuance of a grant or benefit.
- I. To a former employee of the Department for purposes of facilitating communications with a former employee where the Department requires information or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.
- J. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.
- K. To the White House, including the President, Vice President, their staffs, and other entities of the Executive Office of the President, for Executive Branch

coordination of activities which relate to or have an effect upon the constitutional, statutory, or other official or ceremonial duties of the President or Vice-President, to the extent that release of the specific information in the context of a particular case does not constitute an unwarranted invasion of personal privacy.

- L. To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.
- M. To appropriate agencies, entities, and persons when (1) the Department suspects or has confirmed that there has been a breach of the system of records; (2) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
- N. To another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach, or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
- O. To any agency, organization, or individual for the purpose of performing authorized audit or oversight operations of the JMD and meeting related reporting requirements.
- P. To such recipients and under such circumstances and procedures as are mandated

by Federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Records in this system are maintained in restricted access folders, with access limited to those who have a need to know the information.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Data is retrieved by name of covered individuals, by case file identifier, by date or location of incident, or by claimant's Division or program office.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF

RECORDS: Files are retained in hard and electronic copies. The Department has drafted a Schedule for all DOJ Compensation programs, Compensation Programs Records, and has submitted the draft to NARA for review. The DOJ Compensation Programs Records schedule would include permanent records. Pending approval of that schedule, all HAVANA Act Compensation claim files and automated data pertaining to those claims will be retained in anticipation of a permanent retention schedule. If a more limited retention is approved, records will be handled accordingly.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Internet connections are protected by multiple firewalls. Security personnel conduct periodic vulnerability scans using DOJ-approved software to ensure security compliance and security logs are enabled for all computers to assist in troubleshooting and forensics analysis during incident investigations. Users of individual computers can only gain access to the data by a valid user identification and password or passcode. Access to electronic files is limited to personnel who have a need for the files to perform official duties.

Access to hard copy records is limited to personnel who have a need for the records to perform official duties and is safeguarded in access controlled areas. All files are maintained in a secure building.

RECORD ACCESS PROCEDURES: All requests for access to records must be in writing and should be addressed to the Justice Management Division FOIA Contact, 950 Pennsylvania Avenue NW, Room 1111 RFK, Washington, DC 20530, or JMDFOIA@usdoj.gov. Any envelopes and letters should be clearly marked “Privacy Act Access Request.” The request must describe the records sought in sufficient detail to enable Department personnel to locate them with a reasonable amount of effort. The request must include a general description of the records sought and must include the requester’s full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury.

Although no specific form is required, individuals may obtain forms for this purpose from the FOIA/Privacy Act Mail Referral Unit, United States Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530, or on the Department of Justice Web site at <https://www.justice.gov/oip/oip-request.html>.

More information regarding the Department’s procedures for accessing records in accordance with the Privacy Act can be found at 28 CFR Part 16 Subpart D, “Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974.”

CONTESTING RECORD PROCEDURES: Individuals seeking to contest or amend records maintained in this system of records must direct their requests to the address indicated in the “RECORD ACCESS PROCEDURES” paragraph, above. All requests to contest or amend records must be in writing and the envelope and letter should be clearly marked “Privacy Act Amendment Request.” All requests must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record.

More information regarding the Department’s procedures for amending or contesting records in accordance with the Privacy Act can be found at 28 CFR §16.46, “Requests for Amendment or Correction of Records.”

NOTIFICATION PROCEDURES: Individuals may be notified if a record in this system of records pertains to them when the individuals request information utilizing the same procedures as those identified in the “RECORD ACCESS PROCEDURES” paragraph, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: None.

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